PART IV

Section 1-C

GENERAL STATUTORY RULES AND STATUTORY ORDERS ISSUED BY THE CENTRAL GOVERNMENT AND ORDERS MADE BY THE PRESIDENT AND REPUBLISHED BY THE STATE GOVERNMENT.

FINANCE SECRETARIAT

GOVERNMENT OF KARNATAKA

FINANCE DEPARTMENT.

From

The Financial Commissioner and
Secretary to Government, Finance Department.

To

The Secretaries to Government of Karnataka and
The Heads of Departments.

Sir, *Sub*:—**Deduction of Tax at source—Income tax deductions from Salaries during 1978-79**

No. FD 90 RIE 78 BANGALORE, DATED 29TH AUGUST 1978

I am directed to forward herewith a copy of circular No. 242 (Letter No. 275/10/78 IT (B) dated 7th June 1978) from the Deputy Secretary, Department of Revenue and Banking, Government of India, New Delhi, with its Annexures for information and necessary action.

Suitable instructions may also be issued to all the subordinate officers of your Department in this behalf.

Yours faithfully,

C. SIVANNA,

Under Secretary to Government,
Finance Department. (Services).

Immediate Circular No. 242

F. No. 275/10/78-IT(B)
Government of India
MINISTRY OF FINANCE
Department of Revenue
(Central Board of Direct Taxes)
New Delhi, the 7th June, 1978

From

S. R. Wadhwa,
Deputy Secretary to the Government of India.

To

All State Governments.

Sir,

Subject :—Deduction of tax at source-Incom-tax deduction from salaries during 1978-79

I am directed to invite a reference to this Ministry's Circular No. 225 (F. No. 275/13/77-ITB) dated the 30th June, 1977. The Finance Act, 1978, *inter alia*, prescribes the rates at which incometax is to be deducted during the financial year 1978-79 from income chargeable under the head 'Salaries'. An extract of Sub-paragraph I of paragraph A of Part III of the Schedule to the Finance Act, 1978 is at Annex I. These rates will be applicable to the deduction of tax on income from 'Salaries' paid or payable on or after 1st April, 1978. These rates are the same as those laid down in Sub-paragrhph I of paragraph A of Part III of the First Schedule to the Finance (No. 2) Act, 1977, for the purposes of deduction of tax at source from 'Salaries' during the financial year1977-78.

2. The substance of the main provisions in the law so far as they relate to income from 'Salaries' on which tax is to be deducted at source during the financial year 1978-79 is given hereunder :—

(i) No tax will be deductible at source in any case unless the estimated salary income for the financial year exceeds Rs. 10,000/-. Where such income exceeds Rs. 10,000/- by a small margin, the person will be entitled to marginal relief as provided in the said Sub-paragraph. A few typical examples of calculations are given in Annex II.

(ii) The value of the perquisites by way of free residential accommodation and motor cars provided by empleyers to their employees shall be determined under Rule 3 of the Income-tax Rules, 1962 and it shall be taken into account for the purpose of computing the estimated salary income of the employees for the purpose of deduction of tax at source during the financial year 1978-79.

(iii) The amount repaid to an employee from the Additional Dearness Allowance Deposit Account under the provisions of Additional Emoluments (Compulsory Deposit) Act, 1974 shall be liable to be included in his total income of the previous year in which it is repaid as already explained in this Ministry's Circular No. 182 F. No. 275/12/75-ITJ) dated 28th October 1975 [printed at (1975) 101/I.T.R. (St) 130]. The amount repaid will include an element of interest also. While the repayment of principal sum will be regarded as salary paid during the relevent financial year and assessed to tax accordingly, the interest element will qualify for deduction in accordance with section 80L of the Income-tax Act, 1961.

(iv) The amount of deposit made by a tax payer under the Compulsory Deposit Scheme (Income-tax payers) Act 1974 is not allowable as deduction in computing his taxable income. Accordingly such deposit has to be ignored for the purposes of determining the amount of incom-tax deductible at source.

(v) Under Section 16 of the Income-tax Act, 1961, the taxable salary is to be computed after providing a standard deduction in respect of expenditure incidental to employment. The standard deduction is to be allowed in an amount equal to 20% of the salary upto Rs. 10,000/- and 10% of the salary in excess thereof, subject to a maximum of Rs. 3,500/-. For this purpose, the term "salary" will include fees, commission, perquisites or profits in lieu of or in addition to salary but will not include any payments received by the employee which are specifically exempt from tax under clauses (10), (10A), (10B), (11), (12). and (13A) of section 10 of the Income-tax Act. Thus, house rent allowance to the extent exempt under section 10(13A) of the Income-tax Act will not be taken into account for the purposes of computing the amount of the standard deduction. It may be noted that the standard deduction on the above basis to be allowed irrespective of whether any expenditure incidental to employment is *actually* incurred by the employee or not. This deduction will, however, not be admissible in the case of retired pensioners who have not been in emplopment at any time during the financial year 1978-79. In the case of persons who retire from service in the course of the financial year 1978-79, the standard deduction will be calculated only with reference to the salary derived from employment during the financial year without making into account the pension received by the employee. Further, the standard deduction will be limited to Rs. 1,000 only in cases (a) where the employee is in receipt of a conveyance allowance at any time during the financial year, or (b) where he is provided with any motor car, motor cycle, scooter or other moped by his employer (for use otherwise than wholly or exclusively in the performance of his duties) or where he is allowed the use of any one of more motor cars (otherwise than wholly or exclusively in the performance of his duties) out of a pool of motor cars owned or

hired by the employer at any time during the financial year. In this connection it may be noted that the use of a motor car by the employee for the purposes of going from his residence to the place where the duties of employment are to be performed or from such place back to his residence will not be regarded as use of the motor car in the performance of his duties.

(vi) Under Section 80-C of the Income-tax Act, 1961 while computing the taxable income, the disbursing officers should allow a deduction of the whole of the first Rs. 5,000,50% of the next Rs. 5000 and 40 per cent of the balance of the qualifying amount of payments towards life insurance premia, contributions to provident fund, contributions for participation in the Unit-linked Insurance Plan, 1971 made under section19 (1) (cc) of the Unit Trust of India Act, 1963 and deposits in a 10-year Account or 15-year Account under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959. It may be mentioned that the monetary ceiling limit in respect of contributions to recognised provident funds laid down in clause (d) of sub-section (2) of Section 80C of the Income-tax Act as qualifying for tax relief has been raised from Rs. 8000 to Rs. 10,000 through the Finance Act, 1976. The qualifiylng amount of these items taken together will be limited to 30 per cent of the estimated "salary" [after the deduction in respect of expenditure incidental to the employment of the assessee referred to in item (v)] or Rs. 30,000 whichever is less.

(vii) Section 80FF of the Income-tax Act, 1961 provides for deduction in respect of the expenditure incurred by a person on higher education of his dependent children, brother or sister. The deduction is admissible only in the case of Indian citizens whose 'gross total income' does not exceed Rs 12,000 where the said dependent of the assessee is studying for a degree or post-graduate course in medicine (including surgery and obstetrics), architecture, engineering, technology or bussiness management, a deduction of Rs. 1,000 and where the dependent is studying for a diploma course in these subjects or for any other degree or postgraduate course, a deduction of Rs. 500 for each dependent is to be allowed. In cases where the assessee has incurred expenditure on the education of more than two dependents the deduction under the proposed provision will be allowed at the above rates with reference to two such dependents as may be chosen by him. It may be noted that deduction at this rate is to be allowed irrespective of the actual amount spent by the assessee provided some amount is spent by the assessee on such education. The benifit of this deduction can be allowed at the stage of deduction of tax at source on assessee's furnishing a certificate to the effect that he has incurred expenditure during the previous year out of his income chargeable to tax on full time education of his child (ren), brother or sister wholly or mainly dependent on him and also declaring the nature of the course for which they are studying.

(viii) Under section 10 (13A) of the Income-tax Act, 1961, any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent(by whichever name called) in respect of residential accommodation occupied by the assessee is exempt from income-tax to the extent (not exceeding Rs. 400 p. m.) as may be prescribed having regard to the area or place in which such accommodation is situated and other relevant considerations. Rule 2A of the Income-tax Rules, 1962 prescribes the limits in respect of the amount which is not to be included in the total income of the assessee for the purpose of section 10 (13A) of the Income-tax Act. It has to be noted that only the expenditure actually incurred on payment of rent in respect of residential accomodation occupied by the assessee, subject to the limits laid down in Rule 2A, qualifies for exemption from income-tax. Thuse, House Rent Allowance granted to an employee who is residing in a house/flat owned by him is not exempt from income-tax. The disbursing authorities should satisfy themselves in this regard by insisting on production of evidence of actual payment of rent before excluding the House Rent Allowance from the taxable income of the employee.

(ix) No deduction should be made from the salary income in respect of any donations for charitable purpose. The tax relief on such donations admissible under section 80G of the Income—tax Act will have to be claimed by the tax-payer separately at the time of the finalisation of the assessment. However, in cases where contributions to the National Defence Fund, Jawaharlal Nehru Memorial Fund, the Prime Minister's Drought Relief Fund, or the Prime Minister's National Relief Fund are made, 50 per cent of such contributions may be deducted in computing the taxable income of the employee. Deduction will not be admissible where the aggregate of such contributions for the year is less than Rs. 250.

(x) Under section 80GG of the Income-tax Act, 1961, an assesse is entitled to a deduction in respect of house rent paid by him for his own residence at the places specified in Rule 11B of the Income-Tax Rules. 1962, Such deduction is permissible subject to following conditions :—

(a) the assessee has not been in receipt of any house rent allowance specifically granted to him which qualifies for exemption under section 10 (13A) of the Act ;

(b) he will be entitled to a deduction in respect of house rent paid by him in excess of 10 per cent of his total income subject to a ceiling of 15 per cent thereof or Rs. 300/- per month, whichever is less, The total income for working out these percentages will be computed before making any deduction under section 80GG ;

(c) the assessee does not own any house property himself anywhere, nor does his spouse, minor child or the Hindu Undivided Family of which he is a member own any house property anywhere;

(d) the accommodation occupied by him for the purpose of his own residence is situated in any of the following places, namely, Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bombay, Calcutta, Cochin, Coimbatore, Delhi, Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Madras, Madurai, Nagpur, Patna, Pune (Poona), Sholapur, Srinagar, Surat, Trivandrum, Vadodara (Baroda) and Varanasi (Banaras).

The disbursing authorities should satisfy themselves that all the conditions mentioned above are satisfied before such deduction is allowed by them to the assessee. They should also satisfy themselves in this regard by insisting on production of evidence of actual payment of rent.

(xi) Section 10 (14) of the Income-tax Act, 1961 provides for exemption from income-tax of any special allowance or benefit not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specially granted to the employee to meet the expenses actually incurred wholly, necessarily and exclusively in the performance of the duties of an office or employment of profit. In view of this provision, disbursing authorities have been authorised vide Board's Circular No. 196 (F.No. 275/29/76 ITJ) dated 31st March 1976 [printed at (1976) 103 ITR (St) 38-39] not to deduct tax at source from conveyance allowance granted to an employee to the extent it is exempt under the said section. It has been stated therein that the employee in receipt of conveyance allowance would have to furnish the necessary certificate before the disbursing authority in support of the fact that the conveyance allowance is only a reimbursement of expenses laid out wholly, necessarily and exclusively for the performance of duties of an office or employment of profit. The satisfaction of the disbursing authorities would still be liable for scrutiny by the Income-tax Officer during regular assessment proceedings before him. The disbursing authority is also required to endorse a certificate in terms of section 10(14) on the tax deduction certificate issued under section 203 of the Income-tax Act, 1961. In this connection, attention is invited to the *Explanation* to clause (14) of section 10 which clarifies that any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides shall not be regarded for purposes of that clause, as a special allowance granted to meet expenses wholly, necessarily and exclusively incurred in the performance of such duties. This may be kept in view while deciding whether any expenditure from the special allowance has been actually incurred and if so the

extent to which it has been incurred to meet the expenses wholly, necessarily and exclusively in the performance of duties of an office or employment of profit.

(xii) Section 80RRA provides that where the gross total income of an individual who is a citizen of India includes any remuneration received by him in foreign currency from any employer (i.e., a foreign employer or an Indian concern) for any services rendered by him outside India, 50 per cent of such remuneration will be deducted in computing the taxable income. It also provides that where the assessee renders continuous service abroad for more than 36 months, the remuneration received by him for any period of service after the expiry of the said 36 months will not qualify for any deduction. In the case of employees of Central Government or any State Government, or persons who were, immediately before taking up service outside india, In the employment of the Central Government or any State Government, the deduction will be allowed if the service of the employee is sponsored by the Central Government, In the case of other individuals the deduction will be allowed only if the individual is a "technician" and terms and conditions of service outside India are approved for the purposes of the said section by the Central Governmet or the prescribed authority. It is pertinent to note that the deduction is to be allowed with reference to the remuneration received by the individuals in "foreign currency." Thus, if a part of the remuneration is paid to the Indian technician, etc. in Indian currency, the amount paid in Indian currency will not be taken into account for the purposes of the deduction under section 80 RRA. The expression "foreign employer" has been defined under Explanation (b) to section 83 RRA. to mean—

(i) the Government of a foreign State;

or

(ii) a foreign enterprise;

or

(iii) any association or body established outside India.

Where the continuous service outside India exceeds 36 months, the deduction admissible under section 80RRA may be limited to a period of 36 months. In allowing the deduction, documentary evidence should be obtained on the following points:—

(a) In the case of an individual who is in the employment of the Central Government or any State Government, the fact of his service being sponsored by the Central Government; and

(b) In the case of any other individual being a technician, the fact of the terms and conditions of his service outside India being

approved in this behalf by the Central Government (Ministry of Finance, Department of Revenue Foreign Tax Division, New Delhi).

(xiii) The total income computed in accordance with the provisions of the Act should be rounded off to the nearest multiple of ten rupees by ignoring the fraction which is less than five rupees and increasing the fraction which amounts to five rupees or more, to ten rupees. The net amount of tax deductible should be similarly rounded off to the nearest rupee.

(xiv) Attention is also invited to section 276B, where it is provided that if a person without reasonable cause or excuse fails to deduct or after deducting fails to pay the tax as required under the provisions of Chapter XVIIB of the Income Tax Act, 1961, he shall be punishable :—

(i) in a case where the amount of tax which he has failed to deduct or pay exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extent to seven years and with fine ;

(ii) in any other case, with rigorous imprisonment for a term shall which not be less than three months but which may extend to three years and with fine.

3 While making the payment of tax deducted at source to the credit of the Central Government, it may kindly be ensured that the correct amount of income-tax and surcharge is recorded in the relevant challan namely challan on Form No. ITNS 39. Wherever the amount of tax deducted at source is credited to the Central Government through book adjustment, care should be taken to ensure that the correct amount of Income-tax and surcharge is reflected there

4 These instructions may please be brought to the notice of all disbursing officers and State Undertakings under the control of the State Government.

Yours faithfully,

S. R WADHWA,

Deputy Secretary to Government of India

ANNEX—I

EXTRACT FROM THE FINANCE ACT, 1978

PART III OF THE SCHEDULE

PARAGRAPH A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of Income-tax

1	Where the total income does not exceed Rs. 8,000	Nil ;
2	Where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	15 per cent of the amount by which the total income exceeds Rs. 8,000;
3	Where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,050 plus 18 per cent of the amount by which the total income exceeds Rs. 15,000 ;
4	Where the total income exceeds Rs. 20,000 but does not exceed Rs 25,000	Rs. 1,950 plus 25 per cent of the amount by which the total income exceeds Rs. 20,000 ;
5	Where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,200 plus 30 per cent. of the amount by which the total income exceeds Rs. 25,000 ;
6	Where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,700 plus 40 per cent. of the amount by which the total income exceeds Rs. 30,000 ;
7	Where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 12,700 plus 50 per cent. of the amount by which the total income exceeds Rs. 50,000 ;
8	Where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000	Rs. 22,700 plus 55 per cent of the amount by which the total income exceeds Rs. 70,000 ;
9	Where the total income exceeds Rs. 1,00,000	Rs. 39,200 plus 60 per cent of the amount by which the total income exceeds Rs. 1,00,000.

Provided that for the purposes of this sub-paragraph,—

(i) no income-tax shall be payable on a total income not exceeding Rs. 10,000 ;

(i) where the total income exceeds Rs. 10,000 but does not exceed Rs. 10,540 the income-tax payable thereon shall not exceed seventy per cent of the amount by which the total income exceeds Rs. 10,000.

Surcharge on Income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

ANNEX—II

TYPICAL EXAMPLES OF INCOME TAX CALCULATION

EXAMPLE I

		Rs.	Rs.
1	Total salary income	16,000	
2	Contribution to General Provident Fund	2,000	
3	Payments towards life insurance premia	1,000	
4	Participation in Unit-linked Insurance Plan, 1971 made under section 19(1)(cc) of the Unit Trust of India Act, 1963 (52 of 1963)	500	4,000
5	Deposits in a 10-year account or 15-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959	500	
6	Total salary income	16,000	
7	Deduct: amount by way of standard deduction under section 16(i) of the Income-tax Act, 1961, in respect of expenditure incidental to employment @Rs. 2,000 plus 10% of the amount by which salary exceeds Rs. 10,000.	2,600	
		13,400	
8	Deduct: whole of Rs. 4,000 of qualifying contributions towards G.P.F., Life insurance premia, Unit-linked Insurance Plan and deposit in a 10-year account or 15-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959.	4,000	
9	Taxable income	9,400	
10	Income-tax payable on Rs. 9,400.	Nil	

EXAMPLE II

1	Total Salary income	17,500	
2	Contribution to General Provident Fund	2,000	
3	Payments towards life insurance premia	1,500	
4	Participation in Unit-linked Insurance Plan, 1971, made under section 19(1)(cc) of the Unit Trust of India Act, 1963.	500	4,500
5	Deposits in a 10-year account or 15 year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959.	500	
6	Total salary income.		17,500
7	Deduct: amonnt of standard deduction under section 16(i) of the Income-tax Act, 1961, in respect of expenditure incidental to employment Rs. 2,000 plus 10% of the amount by which salary exceeds Rs. 10,000.	2,750	
			14,750
8	Deduct: amount on account of contributions towards G.P.F., Life Insurance premia, Unit-linked Insurance Plan and Deposit In 10 year account or 15-year account under Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959 Total amount paid Rs, 4,500 but restricted to 30% of Rs. 14,750 i.e., Rs. 4,425	4,425	
9	Taxable income.		10,325
	or rounded off to		10,330
10	Income-tax on Rs. 10,330 (*i. e.* @ 15% of Rs. 2,330) Rs. 349.50 but restricted to Rs. 231 being 70% of the amount by which the total income exceeds Rs, 10,000 *i. e.* 70% of Rs. 330		
	Thus income-tax payable on Rs. 10,330	231.00	
	Surcharge on income-tax@ 15%	34.65	
		265.65	
11	Total tax payable (Rounded off to)		266.00

EXAMPLE III

1	Total salary income (including Rs. 2,400 as conveyance allowance @ Rs. 200 p. m. received from the employer)	30,000	
2	Contribution to General Provident Fund	3,000	
3	Payments towards life insurance premia	3,000	
4	Participation in Unit-linked Insurance Plan, 1971 made under section 19 (1) (cc) of the Unit Trust of India Act, 1963	2,000	10,000
5	Deposit in a 10-year account or 15-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959	2,000	
6	Total salary income [It is presumed that conveyance allowance is *not* exempt u/s 10 (14) of the I. T. Act.]		30,000
7	Deduct: amount of standard deduction under section 16 (i) of the Income-tax Act, 1961, in respect of expenditure incidental to employment restricted to Rs. 1,000 in view of clause (1) of the proviso to section 16 (i)	1,000	
			29,000
8	Deduction on account of contributions towards G. P. F., Life Insurance premia, Unit-linked Insurance Plan and deposits in 10-year account or 15-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959. Paid Rs. 10,000 in all but limited to 30% of Rs. 29,000 *i. e.* Rs. 8,700 on the first Rs. 5,000 (full) Rs. 5,000 on the next Rs. 3,700 @ 50% Rs. 1,850		6,850
9	Taxable income		22,150
10	Income-tax payable on Rs. 22,150		2,487.50
11	Surcharge on income tax @ 15%		373.13
			2,860.63
12	Total tax payable (Rounded off to)		2,861.00

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 10 LCR 78.

Bangalore, dated the 15th September 1978.

Ordered that the following Notification No. F. 26 (6)/IT/TM/78, dated 18th August, 1978 of the Government of India (Ministry of Commerce, Civil Supplies and Co-operation) be republished in the Karnataka Gazette for general information.

By Order and in the name of the Governor of Karnataka,

A. NEELAKANTARYA,
Under Secretary to Government,
Department of Law and Parly. Affairs.

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